

§ 115C-390.8. Long-term suspension procedures.

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

- (1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.
- (2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.
- (3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.
- (4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.
- (5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.
- (6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.
- (7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.
- (8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

- (1) The nature of the document, i.e., that it is a long-term suspension notice.
- (2) The process by which the parent may request a hearing to contest the long-term suspension.
- (3) The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

(c) No long-term suspension shall be imposed on a student until an opportunity for a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long-term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing.

- (1) If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).
- (2) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.

- (3) If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the review required by G.S. 115C-390.7(c).

(d) The formal hearing may be conducted by the local board of education, by the superintendent, or by a person or group of persons appointed by the local board or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent or local board shall make a final decision regarding the suspension. The superintendent or board shall adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(e) Long-term suspension hearings shall be conducted in accordance with policies adopted by the board of education. Such policies shall offer the student procedural due process including, but not limited to, the following:

- (1) The right to be represented at the hearing by counsel or, in the discretion of the local board, a non-attorney advocate.
- (2) The right to be present at the hearing, accompanied by his or her parents.
- (3) The right of the student, parent, and the student's representative to review before the hearing any audio or video recordings of the incident and, consistent with federal and State student records laws and regulations, the information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses related to the charges consistent with subsection (h) of this section.
- (4) The right of the student, parent, or the student's representative to question witnesses appearing at the hearing.
- (5) The right to present evidence on his or her own behalf, which may include written statements or oral testimony, relating to the incident leading to the suspension, as well as any of the factors listed in G.S. 115C-390.2(g).
- (6) The right to have a record made of the hearing.
- (7) The right to make his or her own audio recording of the hearing.
- (8) The right to a written decision, based on substantial evidence presented at the hearing, either upholding, modifying, or rejecting the principal's recommendation of suspension and containing at least the following information:
 - a. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.
 - b. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402.
 - c. The student's right to appeal the decision and notice of the procedures for such appeal.

(f) Following the issuance of the decision, the superintendent shall implement the decision by authorizing the student's return to school or by imposing the suspension reflected in the decision.

(g) Unless the decision was made by the local board, the student may appeal the decision to the local board in accordance with G.S. 115C-45(c) and policies adopted by the

board. Notwithstanding the provisions of G.S. 115C-45(c), a student's appeal to the board of a decision upholding a long-term suspension shall be heard and a final written decision issued in not more than 30 calendar days following the request for such appeal.

(h) Nothing in this section shall compel school officials to release names or other information that could allow the student or his or her representative to identify witnesses when such identification could create a safety risk for the witness.

(i) A decision of the local board to uphold the long-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the local board's decision. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record. (2011-282, s. 2.)